

## REMARKS

The specification was found objectionable because of the phrase "(trademark of \_\_\_\_)" was not completed, in reference to the Spam Assassin program. It appears that the Spam Assassin program is Open Source Code. Despite a search of the Spam Assassin website, Applicants were unable to identify the owner of the trademark. Nevertheless, Applicants have identified "Spam Assassin" as a trademark.

Claims 9-16 were rejected under 35 USC 101 because the base claim 9 did not specify that the media was a "storage" media. Correction has been made in amended claim 9.

Claims 1-4, 7, 9-12, 14 and 17-20 were rejected under 35 USC 102 based on Kirsch (US Patent Application 2005/0198159). Applicants respectfully traverse this rejection based on the enclosed Rule 131 Affidavit demonstrating diligence toward constructive reduction to practice of the present invention prior to the filing date of March 8, 2004 filing date of Kirsch (diligence toward filing this patent application from a point, March 1, 2004, prior to the filing date of March 8, 2004 of Kirsch). As indicated in the Rule 131 Affidavit, the four inventors signed the Declaration on March 1, 1, 3 and 5. The first three inventors to sign were located in the US and the last inventor to sign was located in Canada). March 5, 2004 was a Friday. The Patent Application was filed on Tuesday, March 9, 2004. This was only two business days after the last inventor signed the Declaration. Therefore, diligence toward constructive reduction to practice has been shown from March 1, 2004 to the actual filing date of March 9, 2004. See Emery, Howe and Marcella v. Ronden and Rabel, 188 USPQ 264,269 (USPTO Board of Patent Interferences 1974), and Walker v. Bailey, 114 UPQ 302, 304 (CCPA 1957). March 1, 2004 precedes the March 8, 2004 filing date of Kirsch. Therefore, Applicants have "sworn behind" Kirsch, and Kirsch is not prior art relative to the present patent application.

With Kirsch removed as a reference against independent claims 1, 9 and 17, the rejection under 35 USC 102 should be withdrawn. All other claims depend on claims 1, 9 or 17, and therefore should be allowable as well.

Based on the foregoing, Applicants request allowance of the present patent application as amended above.

Respectfully submitted,

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